

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 81

Introduced by Schimek, 27

Read first time January 9, 2003

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicles; to amend section 75-304,
2 Reissue Revised Statutes of Nebraska, and section
3 60-6,211.08, Revised Statutes Supplement, 2002; to change
4 provisions relating to consumption of alcoholic beverages
5 and open containers as prescribed; to establish carrier
6 services classifications; to provide powers and duties;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-6,211.08, Revised Statutes
2 Supplement, 2002, is amended to read:

3 60-6,211.08. (1) For purposes of this section:

4 (a) Alcoholic beverage means (i) beer, ale porter, stout,
5 and other similar fermented beverages, including sake or similar
6 products, of any name or description containing one-half of one
7 percent or more of alcohol by volume, brewed or produced from malt,
8 wholly or in part, or from any substitute therefor, (ii) wine of
9 not less than one-half of one percent of alcohol by volume, or
10 (iii) distilled spirits which is that substance known as ethyl
11 alcohol, ethanol, or spirits of wine in any form, including all
12 dilutions and mixtures thereof from whatever source or by whatever
13 process produced. Alcoholic beverage does not include trace
14 amounts not readily consumable as a beverage;

15 (b) Highway means a road or street including the entire
16 area within the right-of-way;

17 (c) Open alcoholic beverage container means any bottle,
18 can, or other receptacle:

19 (i) That contains any amount of alcoholic beverage; and

20 (ii) (A) That is open or has a broken seal or (B) the
21 contents of which are partially removed; and

22 (d) Passenger area means the area designed to seat the
23 driver and passengers while the motor vehicle is in operation and
24 any area that is readily accessible to the driver or a passenger
25 while in their seating positions, including any compartments in
26 such area. Passenger area does not include the area behind the
27 last upright seat of such motor vehicle if the area is not normally
28 occupied by the driver or a passenger and the motor vehicle is not

1 equipped with a trunk.

2 (2) ~~It~~ Except as otherwise provided in this section, it
3 is unlawful for any person in the passenger area of a motor vehicle
4 to possess an open alcoholic beverage container while the motor
5 vehicle is located in a public parking area or on any highway in
6 this state.

7 (3) Except as provided in section 53-186 and subsection
8 (4) of this section, it is unlawful for any person to consume an
9 alcoholic beverage (a) in a public parking area or on any highway
10 in this state or (b) inside a motor vehicle while in a public
11 parking area or on any highway in this state.

12 (4) This section does not apply to persons who are
13 passengers in, but not drivers of, vehicles operated by carriers
14 authorized by the Public Service Commission to provide charter,
15 limousine, or special party service as classified in section
16 75-304. Such passengers may possess open alcoholic beverage
17 containers and may consume alcoholic beverages while such vehicle
18 is in a public parking area or on any highway in this state subject
19 to the following requirements:

20 (a) The driver of such vehicle is prohibited from
21 consuming or possessing alcoholic liquor while on duty for such
22 carrier;

23 (b) In the case of a special party service, the carrier
24 must notify passengers at the time of reservation or purchase of
25 the special party service whether or not alcoholic beverages may be
26 consumed during the event; and

27 (c) If a minor is found to be, or to have been, consuming
28 any alcoholic beverage while a passenger of a vehicle used to

1 provide such charter, limousine, or special party service, the
2 contract with the carrier is immediately terminated and all
3 passengers will be returned to the point of origin.

4 Sec. 2. Section 75-304, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 75-304. (1) The commission may establish, consistent
7 with subsection (2) of this section, such just and reasonable
8 classifications of groups of carriers, included in the terms common
9 carrier and contract carrier, as the special nature of the services
10 performed by such carriers require and adopt and promulgate such
11 just and reasonable rules, regulations, and requirements, to be
12 observed by the carrier so classified or grouped, as the commission
13 deems necessary or desirable in the public interest and as are
14 consistent with the provisions of sections 75-301 to 75-322.

15 (2) The following classifications of motor carrier
16 services subject to commission jurisdiction are established:

17 (a) Bus service, consisting of the following elements:
18 (i) The business of carrying passengers, (ii) who have hired such
19 service on a scheduled service basis or on a prearranged charter or
20 special party basis, (iii) by bus or van, and (iv) at a fare
21 approved and on file with the commission;

22 (b) Charter service, consisting of the transportation of
23 seven or more persons who collectively contract for transportation
24 on a particular trip paying one lump sum;

25 (c) Household goods moving service, consisting of the
26 following: The business of carrying personal effects and property
27 used, or to be used, in a dwelling when the transportation of such
28 effects or property is arranged and paid for by any party.

1 Household goods moving service includes transportation of property
2 from a factory, manufacturer, or store when the property is
3 purchased with the intent to use such property in a dwelling;

4 (d) Limousine service, consisting of the following
5 elements: (i) The business of carrying passengers for hire by a
6 vehicle, (ii) along a route under the control of the person who
7 hired the vehicle and not over a defined regular route, (iii) on a
8 prearranged and not on a demand basis, and (iv) at a premium fare,
9 as such fare is defined by the commission;

10 (e) Open class service, consisting of the following
11 elements: (i) The business of carrying passengers for hire by a
12 vehicle, (ii) along the most direct route between the points of
13 origin and destination or along a route under the control of the
14 person who hired the vehicle and not over a defined regular route,
15 and (iii) at a mileage-based or per-trip fare;

16 (f) Scheduled service, consisting of service by any
17 regulated motor carrier who undertakes to transport passengers and
18 their baggage in intrastate commerce by motor vehicle for
19 compensation between fixed termini and over a specific highway or
20 highways upon an established or fixed schedule;

21 (g) Special party service, consisting of the
22 transportation of one or more persons who individually contract for
23 transportation to a common destination with each person paying an
24 individual sum; and

25 (h) Taxicab service, consisting of the following
26 elements: (i) The business of carrying passengers for hire by a
27 vehicle, the type of which may be established by the commission,
28 (ii) along the most direct route between the points of origin and

1 destination or a route under the control of the person who hired
2 the vehicle and not over a defined regular route, (iii) on a
3 prearranged or demand basis, (iv) at a metered mileage-based or
4 per-trip fare, and (v) commencing within or restricted to a defined
5 geographic area.

6 (3) All certificates and permits issued by the commission
7 shall be construed and interpreted, and the operations authorized
8 thereunder shall be tested and determined, in accordance with such
9 ~~classification~~ ~~so established~~ classifications and any rule,
10 regulation, or requirement prescribed by the commission relating to
11 such carrier so classified.

12 Sec. 3. Original section 75-304, Reissue Revised
13 Statutes of Nebraska, and section 60-6,211.08, Revised Statutes
14 Supplement, 2002, are repealed.